ENROLLED HOUSE
BILL NO. 1817

By: Braddock of the House

and

Henry of the Senate

An Act relating to conveyances; amending Section 1, Chapter 304, O.S.L. 1994, as amended by Section 6, Chapter 334, O.S.L. 1996 (60 O.S. Supp. 1998, Section 674.2), which relates to property delivered to the Oklahoma Tax Commission; increasing amount of certain property which may be claimed by affidavit; authorizing transfer of property based on affidavit; setting forth certain conditions to be included in affidavit; providing for effective date for application of certain affidavits; exempting certain persons; abolishing doctrine of constructive possession; extinguishing certain existing claims; providing exception; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 304, O.S.L. 1994, as amended by Section 6, Chapter 334, O.S.L. 1996 (60 O.S. Supp. 1998, Section 674.2), is amended to read as follows:

Section 674.2 If any person claims an interest in any property delivered to the Oklahoma Tax Commission in which the owner of the property is determined to be deceased, the Commission shall pay over or deliver to the claimant the property as provided in Section 651 et seq. of Title 60 of the Oklahoma Statutes upon receipt of the following:

1. A certified copy of letters of administration or letters testamentary from the probate of the estate of the decedent naming the claimant as the personal representative of the estate of the decedent; or

2. A certified copy of the decree of distribution from the probate of the estate of the decedent determining the claimant to be entitled to receive such property through the estate of the decedent; or

3. If the value of the property is ~~One Thousand Dollars ($1,000.00)~~ Five Thousand Dollars ($5,000.00) or less, a signed affidavit executed by the claimant stating that the claimant is entitled to receive such property, the reason the claimant is entitled to receive such property, that there has been no probate of the estate of the deceased owner, that no such probate is contemplated and that claimant will indemnify the state for any

loss, including attorney fees, should another claimant assert a prior right to the property.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 67 of Title 16, unless there is created a duplication in numbering, reads as follows:

Any purchaser for value acquiring a severed mineral interest in real estate from a person who claims such interest, immediately or remotely, through a recorded affidavit of death and heirship or a recital of death and heirship in a recorded title transaction, as that term is defined in Section 78 of Title 16 of the Oklahoma Statutes, shall acquire a valid and marketable title to such interest as against any person claiming adversely to such recorded affidavit or recital on the following conditions:

1. The affidavit or recital states that the decedent died without a will;

2. The affidavit or recital lists the names of the decedent's heirs and their relationship to the decedent;

3. The affidavit or recital states that the maker is related to the decedent or otherwise has personal knowledge of the facts stated therein;

4. The affidavit or the title transaction that contains the recital has been recorded for at least ten (10) years in the office of the county clerk in the county in which the real property is located; and

5. No instrument inconsistent with the heirship alleged in the affidavit or recital has been filed in the office of the county clerk in the county in which the real property is located.

This section shall apply to affidavits recorded before the effective date of this act as well as to those recorded thereafter, except that, with respect to those recorded before such date, the ten-year period specified above shall not expire until one (1) year after the effective date of this act. This section shall not apply as against any person in possession of the land, by occupancy or by occupancy of a tenant, at the time such purchaser acquires an interest in such land.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 68 of Title 16, unless there is created a duplication in numbering, reads as follows:

The doctrine of constructive possession is abolished only insofar as it applies to the Simplification of Land Titles Act, Section 61 et seq. of Title 16 of the Oklahoma Statutes. Any claims based upon constructive possession before the effective date of this act shall be extinguished unless a notice of the claim is filed with the county clerk of the county where the land or interest is located within one (1) year from the effective date of this act. The notice of the claim shall set forth basis thereof and specifically refer to this section.

SECTION 4. This act shall become effective November 1, 1999.

Passed the House of Representatives the 2nd day of March, 1999.

Speaker of the House of Representatives

Passed the Senate the 7th day of April, 1999.

President of the Senate